

103D CONGRESS
1ST SESSION

H. R. 3546

To provide for the establishment of a program for safety, development, and education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 1993

Mr. TAUZIN (for himself, Mr. OXLEY, Mrs. FOWLER, Mr. ENGLISH of Oklahoma, Mr. JEFFERSON, Mr. SMITH of New Jersey, Mr. UPTON, Mr. JACOB, Mr. BARCIA of Michigan, Mr. BACHUS of Alabama, Mr. BEVILL, Mr. GILMAN, Mr. STUMP, Mr. DICKEY, Mr. HANCOCK, Mr. MCCRERY, Mr. INHOFF, Mr. PAYNE of Virginia, Mr. EMERSON, Mr. SKELTON, Mr. LANCASTER, Mr. BRYANT, and Mr. BISHOP) introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and Science, Space, and Technology

A BILL

To provide for the establishment of a program for safety, development, and education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Propane Education
5 and Research Act of 1993”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) propane gas, or liquefied petroleum gas, is
4 an essential energy commodity providing heat, hot
5 water, cooking fuel, and motor fuel among its many
6 uses to millions of Americans;

7 (2) the use of propane is especially important to
8 rural citizens and farmers, offering an efficient and
9 economical source of gas energy;

10 (3) propane has been recognized as a clean fuel
11 and can contribute in many ways to reducing the
12 pollution in our cities and towns; and

13 (4) propane is primarily domestically produced
14 and its use provides energy security and jobs for
15 Americans.

16 **SEC. 3. DEFINITIONS.**

17 For the purposes of this Act—

18 (1) the term “Council” means the Propane
19 Education and Research Council created pursuant to
20 section 4 of this Act;

21 (2) the term “industry” means those persons
22 involved in the production, transportation, and sale
23 of propane, and in the manufacture and distribution
24 of propane utilization equipment, in the United
25 States;

1 (3) the term “industry trade association”
2 means an organization exempt from tax, under sec-
3 tion 501(c)(3) or (6) of the Internal Revenue Code
4 of 1986, representing the propane industry;

5 (4) the term “odorized propane” means pro-
6 pane which has had odorant added to it;

7 (5) the term “producer” means the owner of
8 the propane at the time it is recovered at a manu-
9 facturing facility;

10 (6) the term “propane” means a hydrocarbon
11 whose chemical composition is predominantly C^3H^8 ,
12 whether recovered from natural gas or crude oil;

13 (7) the term “public member” means a member
14 of the Council, other than a representative of pro-
15 ducers or retail marketers, representing significant
16 users of propane, public safety officials, academia,
17 the propane research community, or other groups
18 knowledgeable about propane;

19 (8) the term “qualified industry organization”
20 means the National Propane Gas Association, the
21 Gas Processors Association, a successor association
22 of such associations, or a group of retail marketers
23 or producers who collectively represent 25 percent of
24 the volume of propane sold or produced in the
25 United States;

1 (9) the term “retail marketer” means a person
2 engaged primarily in the sale of odorized propane to
3 the ultimate consumer or to retail propane dispens-
4 ers;

5 (10) the term “retail propane dispenser” means
6 a person who sells odorized propane to the ultimate
7 consumer but is not engaged primarily in the busi-
8 ness of such sales; and

9 (11) the term “Secretary” means the Secretary
10 of Energy.

11 **SEC. 4. REFERENDA.**

12 (a) CREATION OF PROGRAM.—The Secretary shall
13 conduct a referendum as soon as possible among produc-
14 ers and retail marketers to authorize the creation of the
15 Propane Education and Research Council and the levying
16 of an assessment on odorized propane. Voting rights in
17 such referendum shall be based on the volume of propane
18 sold or produced in the previous calendar year or other
19 representative period. Upon approval of those persons rep-
20 resenting two-thirds of the total volume of propane voted
21 in the retail marketer class and two-thirds of all propane
22 voted in the producer class, the Secretary shall issue an
23 order establishing the Council. All persons voting in the
24 referendum shall certify to the Secretary the volume of
25 propane represented by their vote.

1 (b) TERMINATION.—On the Secretary’s own initia-
2 tive, or on petition of the Council or of producers and re-
3 tail marketers representing 35 percent of the volume of
4 propane in each class, the Secretary shall hold a referen-
5 dum to determine whether the industry favors termination
6 or suspension of the order issued under subsection (a).
7 Termination or suspension shall not take effect unless it
8 is approved by persons representing more than one-half
9 of the total volume of odorized propane in the retail mar-
10 keter class and more than one-half of the total volume of
11 propane in the producer class.

12 **SEC. 5. PROPANE EDUCATION AND RESEARCH COUNCIL.**

13 (a) APPOINTMENT OF MEMBERS.—Upon issuance of
14 an order by the Secretary under section 4(a) establishing
15 the Propane Education and Research Council, the Sec-
16 retary shall select all retail marketer and producer mem-
17 bers of the Council from a list of nominees submitted by
18 qualified industry organizations. Nominees need not be
19 members of a qualified industry organization. The public
20 members of the Council shall be appointed by the Sec-
21 retary. Vacancies in unfinished terms of Council members
22 shall be filled in the same manner as were the original
23 appointments.

24 (b) REPRESENTATION.—In making nominations and
25 appointments to the Council, the qualified industry organi-

1 zations and the Secretary shall give due regard to selecting
2 a Council that is representative of the industry, including
3 representation of—

4 (1) gas processors and oil refiners among pro-
5 ducers;

6 (2) interstate and intrastate operators among
7 retail marketers;

8 (3) large and small companies among producers
9 and retail marketers; and

10 (4) diverse geographic regions of the country.

11 (c) MEMBERSHIP.—The Council shall consist of 21
12 members, with 9 members representing retail marketers,
13 9 members representing producers, and 3 public members.
14 Other than the public members, Council members shall be
15 full-time employees or owners of businesses in the indus-
16 try. No employee of a qualified industry organization or
17 other industry trade association shall serve as a member
18 of the Council, and no member of the Council may serve
19 concurrently as an officer of the Board of Directors of
20 a qualified industry organization or other industry trade
21 association. Only one person at a time from any company
22 or its affiliate may serve on the Council.

23 (d) COMPENSATION.—Council members shall receive
24 no compensation for their services, nor shall Council mem-
25 bers be reimbursed for expenses relating to their service,

1 except that public members, upon request, may be reim-
2 bursed for reasonable expenses directly related to their
3 participation in Council meetings.

4 (e) TERMS.—Council members shall serve terms of
5 3 years and may serve not more than 2 full terms. Mem-
6 bers filling unexpired terms may serve not more than a
7 total of 7 years. Former members of the Council may be
8 returned to the Council if they have not been members
9 for a period of 2 years. Initial appointments to the Council
10 shall be for terms of 1, 2, and 3 years, staggered to pro-
11 vide for the election of 7 members each year.

12 (f) FUNCTIONS.—The Council shall develop programs
13 and projects and enter into contracts or agreements for
14 implementing this Act, including programs to enhance
15 consumer safety, to provide for research and development
16 of clean and efficient propane utilization equipment, to in-
17 form and educate the public, to develop and preserve mar-
18 kets for propane, and to provide for the payment of the
19 costs thereof with funds collected pursuant to this Act.
20 The Council shall coordinate its activities with industry
21 trade association and others as appropriate to provide effi-
22 cient delivery of services and to avoid unnecessary duplica-
23 tion of activities.

24 (g) ADMINISTRATION.—The Council shall select from
25 among its members a Chairman and other officers as nec-

1 essary, may establish committees and subcommittees of
2 the Council, and shall adopt rules and bylaws for the con-
3 duct of business and the implementation of this Act. The
4 Council shall establish procedures for the solicitation of
5 industry comment and recommendations on any signifi-
6 cant plans, programs, and projects to be funded by the
7 Council. The Council may establish advisory committees
8 of persons other than Council members.

9 (h) EMPLOYEES; ADMINISTRATIVE EXPENSES.—The
10 Council may employ a person to serve as Chief Executive
11 Officer and such other employees as it considers nec-
12 essary. The Council shall determine the compensation and
13 duties of each employee, and shall protect the handling
14 of Council funds through fidelity bonds. The administra-
15 tive expenses of operating the Council shall not exceed 10
16 percent of the funds collected in any fiscal year.

17 (i) BUDGET.—Before August 1 each year, the Coun-
18 cil shall publish for industry review and comment a budget
19 plan for the next calendar year, including the probable
20 costs of all programs, projects, and contracts and a rec-
21 ommended rate of assessment sufficient to cover such
22 costs. Following this review and comment, the Council
23 shall submit the proposed budget to the Secretary. The
24 Secretary shall recommend any changes the Secretary con-

1 siders appropriate to the budget after an opportunity for
2 public comment.

3 (j) RECORDS; AUDITS.—The Council shall keep min-
4 utes, books, and records that clearly reflect all of the acts
5 and transactions of the Council and regularly report such
6 information to the Secretary, along with such other infor-
7 mation as the Secretary may require. The books of the
8 Council shall be audited by a certified public accountant
9 at least once each fiscal year and at such other times as
10 the Council may designate. Copies of such audit shall be
11 provided to the Secretary, all members of the Council, all
12 qualified industry organizations, and to other members of
13 the industry upon request. The Secretary shall receive no-
14 tice of meetings and may require reports on the activities
15 of the Council, as well as reports on compliance, violations,
16 and complaints regarding the implementation of this Act.

17 (k) REIMBURSEMENT OF FEDERAL EXPENSES.—
18 From assessments collected, the Council shall annually re-
19 imburse the Secretary for costs incurred in holding the
20 referendum establishing the Council, making appoint-
21 ments to the Council, and other expenses directly related
22 to the Council, not in excess of the cost of three employee
23 years, as determined by the Secretary.

1 **SEC. 6. ASSESSMENTS.**

2 (a) AMOUNT.—The Council shall set the initial as-
3 sessment at no greater than one tenth of 1 cent per gallon
4 of odorized propane. Thereafter, annual assessments shall
5 be sufficient to cover the costs of the plans and programs
6 developed by the Council. The assessment shall not be
7 greater than one-half cent per gallon of odorized propane,
8 unless approved by a majority of those voting in a referen-
9 dum in both the producer and the retail marketer class.
10 The assessment may not be raised by more than one tenth
11 of 1 cent per gallon of odorized propane annually.

12 (b) OWNERSHIP.—The owner of odorized propane at
13 the time of odorization, or the time of import of odorized
14 propane, shall pay the assessment based on the volume
15 of odorized propane sold and placed into commerce. As-
16 sessments are payable to the Council on a monthly basis
17 by the 25th of the month following the month of such sale.
18 Propane exported from the United States to another coun-
19 try is not subject to the assessment.

20 (c) ALTERNATIVE COLLECTION RULES.—The Sec-
21 retary may by regulation, with the concurrence of the
22 Council, establish an alternative means of collecting the
23 assessment if another means is found to be more efficient
24 and effective. The Secretary may by regulation establish
25 a late payment charge and rate of interest to be imposed

1 on any person who fails to remit, collect, or pay to the
2 Council any amount due under this Act.

3 (d) INVESTMENT OF FUNDS.—Pending disbursement
4 pursuant to a program, plan, or project, the Council may
5 invest funds collected through assessments, and any other
6 funds received by the Council, only in obligations of the
7 United States or any agency thereof, in general obligations
8 of any State or any political subdivision thereof, in any
9 interest-bearing account or certificate of deposit of a bank
10 that is a member of the Federal Reserve System, or in
11 obligations fully guaranteed as to principal and interest
12 by the United States.

13 (e) STATE PROGRAMS.—After consultation with the
14 Council, the Secretary may by regulation establish a pro-
15 gram coordinating the operation of the Council with those
16 of any State propane education and research council or
17 similar entity created by State law. This may include a
18 joint or coordinated assessment collection process, a re-
19 duced assessment, or an assessment rebate. If adopted,
20 the reduction in assessment or rebate may be in an
21 amount not to exceed 20 percent of the regular assessment
22 collected in that State under this section. Assessment re-
23 bates shall be paid only to a State propane education and
24 research council or similar entity that meets the require-

1 ments established by the Council, and only for specific
2 projects approved by the Council.

3 **SEC. 7. ENFORCEMENT.**

4 (a) CEASE AND DESIST ORDERS; CIVIL PEN-
5 ALTIES.—The Secretary, after providing notice and an op-
6 portunity for hearing, may, with respect to any person who
7 violates any provision of this Act or any plan, regulation,
8 or order issued under this Act—

9 (1) issue an order requiring that person to
10 cease and desist from continuing such violation; and

11 (2) assess a civil penalty not to exceed \$5,000
12 for each such violation.

13 Each day during which a violation continues shall be con-
14 sidered a separate violation.

15 (b) INVESTIGATORY POWERS.—In order to carry out
16 this Act, the Secretary may administer oaths and affirma-
17 tions, subpoena witnesses, compel their attendance, take
18 evidence, and require the production of any books, papers,
19 and documents which are relevant to the inquiry. Such
20 attendance of witnesses and the production of any such
21 records may be required from any place in the United
22 States. The district courts of the United States may pun-
23 ish a failure to comply with a subpoena issued under this
24 subsection as a contempt of the court.

1 **SEC. 8. LOBBYING RESTRICTIONS.**

2 No funds collected by the Council shall be used in
3 any manner for influencing legislation or elections, except
4 that the Council may recommend to the Secretary changes
5 in this Act or other statutes that would further the pur-
6 poses of this Act.

7 **SEC. 9. ADMINISTRATIVE PROVISIONS.**

8 Nothing in this Act may be construed to preempt or
9 supersede any other program relating to propane edu-
10 cation and research organized and operated under the laws
11 of the United States or any State.

12 **SEC. 10. ISSUANCE OF REGULATIONS.**

13 Within 9 months after the date of enactment of this
14 Act, the Secretary shall issue regulations for the imple-
15 mentation of this Act. The Secretary may require such
16 reports or documentation as is necessary to document the
17 referendum process and the nomination process for mem-
18 bers of the Council and shall protect the confidentiality
19 of all such documentation provided by industry members.

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